Single Bench Original (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 76 OF 2005

PETITIONER : Smt. Premi Bai, wife of Bisahu Lal Tamrakar, aged about 66 years, resident of village : Ghutku, Tahsil : Takhatpur, Distt : Bilaspur (C.G.)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh through the Secretary, Panchayat and Social Welfare Department, D.K.S. Bhawan, Raipur (C.G.).
2. The Collector, Bilaspur District : Bilaspur (C.G.)
3. Sub Divisional Officer (Revenue), Kota, Distt : Bilaspur (C.G.)
4. Tahsildar (Returning Officer) Takhatpur, District : Bilaspur (C.G.)
5. Nayab Tahsildar (Area Returning Officer), Ganiyari, District : Bilaspur (C.G.)
6. Chief Executive Officer, Janpad Panchayat, Takhatpur, District : Bilaspur (C.G.)

R.R. No. 1026/05 Presented by Shri D.K. Tamrakar dated 11.1.05

COPY

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

(52)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 76/2005 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

18-1-2005

On a mention being made, the case is taken up for hearing.

Shri V. K. Pandey, counsel for the petitioner.

Shri V.V.S. Murthy, Deputy Advocate General for the State /respondents No.1 to 5.

Heard both the counsel.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the legality and correctness of the order passed by respondent No.4 whereby the nomination paper of the petitioner for contesting the election for the post of Sarpanch of village Panchayat Ghutku has been rejected on 29-12-2004.

The petitioner's grievance is that the petitioner's nomination paper has been rejected on the ground that some dues to the tune of Rs.37,500/- are outstanding against her husband Bisahulal Tanmrakar.

Learned counsel for the petitioner submitted that nomination paper has been rejected totally on the irrelevant and non-existent ground and as per the provisions of clause (p) of sub-section (1) of Section 36 of the Panchayat Raj Adhiniyam 'no person shall be eligible to be an office-bearer of the Panchayat if he has not paid all the dues which are recoverable by the Panchayat against any type of outstanding dues.' He further submitted that as per this provision nomination paper of the petitioner can be rejected if any amount is outstanding against

GRPRJ—FS/350—12/2000—50,000.

(53)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 76 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	her. Since no dues are outstanding against her, nomination paper cannot be rejected on the ground that some dues are outstanding against her husband, as has been held by the Division Bench in L.P.A. No.5/2005 vide order dated 14-1-2005 that after the commencement of election process, judicial intervention is not permissible. In the given situation, learned counsel for the petitioner seeks to withdraw this petition with liberty to file Election Petition. Learned counsel for the petitioner further submitted that the returning officer is not giving certified copy of the rejection order, therefore, the returning officer be also directed to give certified copy of the rejection order to the petitioner. Prayer seems to be justified. Therefore, the petition is dismissed as withdrawn with liberty to avail alternative remedy available to the petitioner under the law with a direction that respondent No.4 to provide certified copy of the rejection order to the petitioner on demand. Consequently, M.(W.)P. No.70/2005 and I.A. No.331/2005 also stand disposed of. Parties are entitled for certified copy of this order. **Sd/-** **L.C. Bhadoo** **Judge**	

Barve

19.1.05

19.1.05

19-1-05

22.1.05